

FILED

IN THE UNITED STATES DISTRICT COURT FOR THE 2ND JUDGE 4 2000
WESTERN DISTRICT OF OKLAHOMA

ROBERT D. DENNIS, CLERK
U.S. DIST. COURT, WESTERN DIST. OF OKLA.
BY DEPUTY

IN RE:

SELECTION, QUALIFICATIONS AND COMPENSATION
OF COURT-APPOINTED FEDERAL PANELS PURSUANT
TO LOCAL RULE 16.3 SUPP. § 2.1, ET SEQ., PLAN FOR
ALTERNATIVE DISPUTE RESOLUTION AND SETTLEMENT
PROCEDURES

G.O. - 2000 - 00-2

DOCKETED

GENERAL ORDER REGARDING COURT-APPOINTED FEDERAL PANELS

A. **Scope of Order.** This Order supercedes and replaces Miscellaneous Order 22, Standing Order Regarding Mediators, filed in this Court on January 31, 1992. To supplement and facilitate the Plan for Alternative Dispute Resolution and Settlement Procedures and Rules of Practice concerning court-appointed federal panels, LCvR16.3 Supp. § 2.1 et seq., and to insure quality dispute resolution providers at a reasonable cost, this Order is adopted.

B. **Selection of ADR Panel Members.** Applications for panel membership to the court's mediation, early neutral evaluation or arbitration panels are reviewed by the Alternative Dispute Resolution Advisory Committee, appointed by the Chief Judge.

Recommendations are then made by the committee to the Court for final approval and appointment. If approved by Order of the Court for panel membership, and once any additional court requirements are met, the names of the approved panel members, their qualifications, resumes, signed Oaths and current fee schedules, if appropriate, are placed in the specific ADR Panel Membership Book available in the Court Clerk's Office. They are then officially listed on the specific roster of providers available to every case and the general public.

C. **Qualifications for Panel Membership.** Pursuant to the Plan for Alternative Dispute Resolution and Settlement Procedures, the following qualifications are established:

1. Each lawyer serving as an ADR panel member shall be admitted to the practice of law for at least 5 years and be a member in good standing with the bar of this Court or be a member of the faculty of an accredited law school. Arbitrators and evaluators shall be lawyers. A mediator who is a non-attorney must be a professional mediator or other professional who would otherwise qualify as a special master. All panel members shall be determined by the Court to be competent to perform the specific program duties. All panel members shall be knowledgeable about civil litigation in federal court and shall have strong mediation, arbitration, evaluation or other ADR process skills.

2. Panel members shall successfully complete all training and other experience requirements required by the Court.

a. Mediator Training and Apprenticeship Requirements. Prior to submission of an Application, all attorney mediator and other professional/special master mediator applicants must:

- i. Complete a minimum of 24 hours of classroom training consisting of training in the mediation process, role and responsibilities of the mediator and participants, confidentiality, ethical considerations, conflict theory, communication, use of caucusing and simulated mediation exercises; and
- ii. Complete a minimum of 2 observations of mediation sessions with mediators who are approved/certified by any state, state court or federal court program; and
- iii. Complete a minimum of 2 meditations as a mediator. (Observations and completions of mediation sessions in small claims court will not satisfy this requirement.)
- iv. Once approved by the Court to become a mediator panel member, the member will be listed on the panel roster and included in the Mediator Panel Membership Book.

b. Early Neutral Evaluator Training Requirements. Once approved by the Court to become an ENE panel member, the Court's specific ENE training must be taken in order to be listed on the panel roster and be included in the ENE Panel Membership Book.

c. Arbitrator Training for Court-Annexed Non-Binding Arbitration. Once approved by the Court to become an Arbitration panel member, the Court's specific arbitration training must be taken when offered for continued listing on the panel roster and inclusion in the Arbitration Panel Membership Book.

D. Waiver. The Court reserves the right to waive certain requirements under appropriate circumstances.

E. Term of Appointment/ Requirements for Continuation of Panel Membership Listing. Each panel member is required to submit any address or telephone number change and any fee schedule update promptly to the ADR Administrator to insure information accuracy. Each panel member is to attend any in-court training if required. Each panel member shall remain on their respective panel roster unless a request is made by the panel member to the ADR Administrator for

name removal or the panel member is otherwise removed or appointment withdrawn; EXCEPT that for continuation on the Panel of Mediators, Mediators are to keep their skills current and meet the following three (3) bi-annual requirements:

- (1) mediators shall be required to complete a minimum of six (6) hours of continuing professional education in the area of mediation, which education has been approved by the Mandatory Continuing Legal Education Commission of the Oklahoma Bar Association; or
- (2) complete at least six (6) mediation sessions as a mediator; and
- (3) send written confirmation of satisfying this requirement to the ADR Administrator at the end of each 2 years, beginning in the year 2000.

F. Compensation:

1. In General. Unless otherwise established by statute, prescribed by the Judicial Conference of the United States, directed by the Court or unless proceeding pro bono, mediators and evaluators may charge reasonable fees. The cost of the panel member's services shall be shared equally by all the parties, unless otherwise agreed by counsel, and be payable at the time of the particular dispute resolution session. The Court encourages full disclosure between neutrals and parties of all fee and expense requirements, limitations and arrangements prior to the commencement of the session. Fee schedules are set forth in the Court's panel roster books in the office of the Court Clerk, and are available to litigants and the public.

2. Compensation of Arbitrators pursuant to 28 U.S.C. § 654 et seq. Subject to limits set by the Judicial Conference of the United States or as the Court may direct, arbitrators serving in a non-binding arbitration during any period that funding is appropriated for arbitrators under this statute, shall be paid from the designated court funds, as follows: \$150.00 as a single arbitrator or \$100.00 as a member of a panel of three arbitrators per day or portion of each day of hearing in which they participate. For protracted hearings or when the court's administration is utilized for a binding arbitration, designated court funds may be used if available and authorized by the Court pursuant to limits set by the Judicial Conference or reasonable arrangements may be made and be agreed to by the parties and the arbitrator(s). If statutory funding ceases, arbitrators may charge reasonable fees pursuant to § F (1). above.

3. Pro bono Service. Each panel member must serve pro bono at least once per year if requested by the parties in an appropriate case or if requested or ordered by the Court. Members may do other pro bono service as appropriate. The Court is mindful of the need for pro bono services in some cases, would encourage the discussion of reduced fees in appropriate cases and authorizes such discourse between counsel. If the need for pro bono service increases, the Court may consider a pro

bono panel(s).

4. **Fees and Rates of Panel Members.** Upon being notified of panel membership acceptance, each new panel member (except arbitrators unless and until federal funding expires) shall submit to the Clerk of Court his or her proposed fee or rate schedule including any special fees, costs or limitations (which may be updated at any time). This is placed in the appropriate panel roster book in the Court Clerk's office for use by the parties in selection of their ADR neutral and will be incorporated in panel membership information available on the court's website when available.

5. Additionally, the Court reserves the right to review the reasonableness of the fees charged by panel members in light of the cost reduction responsibilities and requirements of the Court and encourages methods for minimizing undue burden and expense for ADR.

IT IS SO ORDERED this 24 day of July, 2000.



DAVID L. RUSSELL, CHIEF
UNITED STATES DISTRICT JUDGE



ROBIN J. CAUTHRON
UNITED STATES DISTRICT JUDGE



TIM LEONARD
UNITED STATES DISTRICT JUDGE



VICKI MILES-LAGRANGE
UNITED STATES DISTRICT JUDGE